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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/353,887	07/15/1999	STEPHEN W. EDWARDS	3DL.257US(TDH-29)	4245
75091	7590	09/29/2008		
Creative/3Dlabs/Groover P.O. BOX 802889 DALLAS, TX 75380			EXAMINER BRIER, JEFFERY A	
			ART UNIT 2628	PAPER NUMBER
			MAIL DATE 09/29/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/353,887	<b>Applicant(s)</b> EDWARDS, STEPHEN W.	
	<b>Examiner</b> Jeffery A. Brier	<b>Art Unit</b> 2628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,4-8,14,20,27,30 and 33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1 and 4-8 is/are allowed.
- 6) ☒ Claim(s) 14,20 and 33 is/are rejected.
- 7) ☒ Claim(s) 27 and 30 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

1. The amendment filed on 07/14/2008 has been entered.

### ***Response to Arguments***

2. Applicant's arguments concerning the 35 USC 101 rejection filed 07/14/2008 have been fully considered but they are not persuasive because a claim drawn to "computer program containing material" does not a statutory invention under 35 USC 101 because it is not a process, machine, manufacture, or composition of matter, thus, claims 20 and 33 claim a program per se. In re Nuijten, 84 USPQ2d 1495 (Fed. Cir. 2007) and In re Nuijten, 85 USPQ2d 1927 (Fed. Cir. 2008). US Patent and Trademark Office Appeal No. 2008-1495, Ex parte Lars Langemyr et al., decided May 28, 2008.

### ***Claim Objections***

3. Claims 27, 30, and 33 are objected to because of the following spelling error and grammatical informalities which when corrected will ease reading of these claims:

Claim 27:

at line 10 "the single texture memory" should be "the single linear texture memory"; and

at line 13 "the single textured memory" should be "the single linear texture memory".

Art Unit: 2628

Claim 30:

at lines 6 and 16 "the single texture memory" should be "the single linear texture memory"; and

at line 13 "the texture memory" should be "the single linear texture memory".

Claim 33:

at line 4 "a the" should be "the";

at line 14 "the texture memory" should be "the single linear texture memory"; and

at line 17 "the single texture memory" should be "the single linear texture memory".

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 20 and 33 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 20:

This claim claims "computer program containing material for use on a computer system" but does not define the material, thus, this claim claims a program per se among other non-statutory materials. In re Nuijten, 84 USPQ2d 1495 (Fed. Cir. 2007)

Art Unit: 2628

and In re Nuijten, 85 USPQ2d 1927 (Fed. Cir. 2008). US Patent and Trademark Office Appeal No. 2008-1495, Ex parte Lars Langemyr et al., decided May 28, 2008

Claim 33:

This claim claims "computer program containing material product for use on a computer system" and claims "the computer program containing material product comprising a computer usable medium" but does not define the material and usable medium, thus, this claim covers signals. In re Nuijten, 84 USPQ2d 1495 (Fed. Cir. 2007) and In re Nuijten, 85 USPQ2d 1927 (Fed. Cir. 2008).

### ***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 14 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 14:

This claim claims at line 12 "reconstructing the texture map after it is retrieved from the single memory device", however, the amended claim is unclear whether the reconstructed image is the texture map in the "applying the texture map to the graphical image" step at line 11.

Art Unit: 2628

Claim 20:

At lines 16-17 this claim has the same issue present in claim 14. Specifically this claim claims at lines 16-17 "reconstructing the texture map after it is retrieved from the single memory device", however, the amended claim is unclear whether the reconstructed image is the texture map in the "applying the texture map to the graphical image" program code at line 15.

***Allowable Subject Matter***

8. Claims 1 and 4-8 allowed.
9. Claim 14 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.
10. Claims 27 and 30 would be allowable if rewritten or amended to overcome the informalities, set forth in this Office action.
11. Claim 20 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 101 and 112, 2nd paragraph, set forth in this Office action.
12. Claim 33 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 101, set forth in this Office action.

***Conclusion***

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

Art Unit: 2628

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffery A. Brier whose telephone number is (571) 272-7656. The examiner can normally be reached on M-F from 7:30 to 4:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Razavi, can be reached at (571) 272-7664. The fax phone Number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Jeffery A. Brier/  
Primary Examiner, Division 2628